

CHRONICLE ON INTERNATIONAL COURTS AND TRIBUNALS (JULY - DECEMBER 2015)

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Summary: I. INTERNATIONAL COURT OF JUSTICE (ICJ). II. INTERNATIONAL CRIMINAL COURT (ICC). III. MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS (MICT). IV. SPECIAL COURT FOR SIERRA LEONE (SCSL) – RESIDUAL SPECIAL COURT FOR SIERRA LEONA (RSCSL). V. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC). VI. SPECIAL TRIBUNAL FOR THE LEBANON (STL). VII. EFTA COURT.

INTERNATIONAL JUDICIAL TRIBUNALS

GENERAL JURISDICTION

I. INTERNATIONAL COURT OF JUSTICE (ICJ) (WWW.ICJ-CIJ.ORG)

1. News

New composition of the Rules Committee and the Library Committee As of 3 July 2015, the composition of the Rules and Library Committees are as follows:

- *Rules Committee* – Judge Hisashi Owada (Chairman); Judges Antônio Augusto Cançado Trindade, Joan E. Donoghue, Giorgio Gaja, Patrick Lipton Robinson, James Richard Crawford, Kirill Gevorgian
- *Library Committee* – Judge Antônio Augusto Cançado Trindade (Chairman); Judges Giorgio Gaja, Dalveer Bhandari, Kirill Gevorgian

ICJ opens twitter account On 3 November 2015, the Court opened a twitter account with the following name: @CIJ_ICJ

2. Judgements

Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) On 24 September 2015, the Court delivered its Judgement, which is final and without appeal, on the preliminary objection of Chile in this case: first, rejecting the preliminary objection raised by the Republic of Chile (by fourteen votes to two) and second, finds that the Court has jurisdiction to entertain the Application filed by Bolivia on 24 April 2013.

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Joined cases Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica) On 16 December 2015, the Court delivered the following judgement in the aforementioned joined cases:

- *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*: “The Court finds that Nicaragua has violated Costa Rica’s territorial sovereignty and navigational rights, as well as the Court’s Order of 8 March 2011 indicating provisional measures, but that it did not breach procedural or substantive environmental obligations through its dredging of the San Juan River”.
- *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*: “The Court finds that Costa Rica has violated its obligation to carry out an environmental impact assessment concerning the construction of Route 1856, but that it did not breach substantive environmental obligations”.

3. Pendant cases

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) On 1 July 2015, the ICJ decided to resume the proceedings in this case regarding the issue of reparations and fixed 6 January 2016 as the time-limit for the filing of the written pleadings. On 14 December 2015, the ICJ fixed 28 April 2016 as time-limit for the filing of the Memorials on reparations of each Party.

Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan) The Court decided on 9 July 2015 to extend the time-limit for the filing of the Counter-Memorial of Pakistan regarding the question of the jurisdiction of the Court and the admissibility of the Application to 1 December 2015.

Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia) On 2 October 2015, the Court concluded public hearings on the preliminary objections of Colombia and started its deliberation.

Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia) On 9 October 2015, the Court concluded public hearings on the preliminary objections of Colombia and started its deliberation.

Maritime Delimitation in the Indian Ocean (Somalia v. Kenya) On 9 October 2015, the Court fixed 5 February 2016 as the time-limit within which Somalia and Kenya may present its written statement and preliminary objections respectively.

INTERNATIONAL CRIMINAL LAW

II. INTERNATIONAL CRIMINAL COURT (ICC) (WWW.ICC-CPI.INT)

1. News

New Assistance Projects of the Trust Fund for Victims in Northern Uganda On 3 July 2015, the TFV launched new projects offering rehabilitative services such as services for survivors of sexual violence, orthopaedic surgical services or physiotherapy, among others. The TFV's budget for its project in Northern Uganda amounted to EUR 735,000.

Swearing-in of Raul Pangalangan On 13 July 2015, newly elected Judge Raul Pangalangan (Philippines) was sworn in and his term of office will last until 10 March 2021.

Trust Fund for Victims discussed reparations plan in the Lubanga Case The Board of Directors of the TFV met on 21-22 July 2015 in an extraordinary meeting to discuss progress regarding the draft implementation plan for reparations in the case against Mr Lubanga.

Situation in DRC re-assigned to Pre-Trial Chamber I In order to assure the proper administration of the Court, the Presidency of the ICC decided on 21 August 2015 to re-assign the situation in the Democratic Republic of the Congo (DRC) to Pre-Trial Chamber I.

Ukraine accepts ICC jurisdiction over allegedly committed crimes On 8 September 2015, the Registrar of the ICC received a declaration lodged by Ukraine, a State not party to the Statute, under article 12(3) of the Rome Statute accepting the jurisdiction of the ICC regarding the crimes allegedly committed in its territory from 20 February 2014 on. It is the second declaration lodged by Ukraine under the same article accepting the ICC's jurisdiction over allegedly committed crimes in its territory.

Ratification of Amendments of the Rome Statute on war crimes and on the crime of aggression by Switzerland On 10 September 2015, H.E. Mr. Sidiki Kaba, the President of the ASP, received the deposit of the Swiss instruments of ratification of the amendments to the Statute on war crimes and the crime of aggression. Switzerland is the 25th State that has ratified the amendments.

Situation in Georgia assigned to Pre-Trial Chamber I The Presidency of the ICC decided on 8 October 2015 to assign the Situation in Georgia to Pre-Trial Chamber I, which is composed of Judges Joyce Aluoch (Presiding), Cuno Tarfusser and Péter Kovács.

Trust Fund for Victims files draft implementation plan for reparations in the Lubanga case On 3 November 2015, TFV's Board of Directors submitted the draft

implementation plan for the collective reparations to victims in the case against Mr Lubanga to the ICC. This was the first initiative of this kind in the history of the ICC.

Ratification of Amendments of the Rome Statute on war crimes by Georgia On 3 November 2015, Georgia deposited the instrument of ratification of the amendments to the Rome Statute on war crimes and thus became the 26th State to have ratified this amendment.

France announces financial contribution to the Trust Fund for Victims French Minister of Justice announced on 7 December 2015 a financial contribution of €750,000 to the TFV, being the single largest donation of France to the TFV until now.

ICC moves to permanent premises On 14 December 2015, the ICC moved into its new buildings having now a “permanent home” (Oude Waalsdorperweg 10, 2597 AK, The Hague).

Lubanga Dyilo and Katanga transferred to a prison in the Democratic Republic of the Congo Both, Thomas Lubanga Dyilo and Germain Katanga were transferred on 19 December 2015 to a prison in the DRC to serve their sentences of imprisonment. Earlier, on 8 December 2015, the Presidency of the ICC designated the DRC, pursuant to article 103 of the Rome Statute, as the State enforcing the sentences of imprisonment. This was the first time that the ICC designated a State for the enforcement of a sentence, in this cases respecting the will of the two convicts.

2. Procedural incidents

Prosecutor v. Uhuru Muigai Kenyatta On 19 August 2015, the Appeals Chamber of the ICC reversed a decision of the Trial Chamber V(B) regarding the alleged non-compliance of the Kenyan Government with obligations under the Rome Statute in the case *The Prosecutor v. Uhuru Muigai Kenyatta* due to errors in the Trial Chamber’s assessment. The decision was remanded to the Trial Chamber V(B) that has to determine “in light of relevant factors” whether Kenya had failed to comply with the request for cooperation by the Court that prevented the ICC from exercising its duties.

The Prosecutor v. Bosco Ntaganda On 2 September 2015, the trial in this case opened before Trial Chamber VI that is composed of Judges Robert Fremr, Kuniko Ozaki and Chang-ho Chung. Mr. Ntaganda is accused of 13 counts of war crimes and 5 counts of crimes against humanity allegedly committed in 2002-2003 in Ituri (DRC).

The Prosecutor v. Joseph Kony, Vincent Otti and Okot Odhiambo On 10 September 2015, the proceedings against Okot Odhiambo were terminated by a decision of the Pre-Trial Chamber II due to the forensic confirmation of his death.

The Prosecutor v. Thomas Lubanga Dyilo On 22 September 2015, the Appeals Chamber of the ICC decided not to reduce Mr Lubanga’s sentence and that the next review will be held in 2 years from the issuance of this decision.

The Prosecutor v. Ahmad Al Faqi Al Mahdi On 26 September 2015, Mr Ahmad Al Mahdi Al Faqi was surrendered to the ICC by Niger based on an arrest warrant issued on 18 September 2015. He is suspected of war crimes allegedly committed in Timbuktu (Mali) “through intentionally directing attacks against buildings dedicated to religion and/or historical monuments”. For the first time, a case is brought before the ICC regarding the destruction of religious and historical monuments.

The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido On 29 September 2015, the trial in this case opened. All persons are accused of “offences against the administration of justice” in relation with the testimonies of witnesses in the Case *The Prosecutor v. Jean-Pierre Bemba Gombo*.

The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé The trial’s opening statements in this case was rescheduled on 28 October 2015 by the Trial Chamber I of the ICC to 28 January 2016.

Comoros Situation The Appeals Chamber decided on 6 November 2015 to dismiss the Prosecutor’s appeal against the decision taken by the Pre-Trial Chamber I that had requested the Prosecutor to reconsider its decision “not to initiate an investigation into the situation referred to her by the Union of the Comoros with regard to ‘the 31 May 2010 Israeli raid on the Humanitarian Aid Flotilla bound for Gaza Strip’”.

The Prosecutor v. Germain Katanga The Appeals Chamber of the ICC, composed of Judges Piotr Hofmański (Presiding), Sanji Mmasenono Monageng and Christine Van den Wyngaert, decided on 13 November 2015 to reduce Germain Katanga’s sentence pursuant to article 110 of the Rome Statute; accordingly, he will have completed his sentence by 18 January 2015.

3. Arrest warrant

The Prosecutor v. Paul Gicheru and Philip Kipkoech Bett On 10 September 2015, an arrest warrant against Mr. Gicheru and Mr. Kipkoech Bett was unsealed by the Pre-Trial Chamber II of the ICC. The arrest warrant was issued on 10 March 2015 for corruptly influencing witnesses.

III. MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS (MICT) (WWW.UNMICT.ORG)

1. News

Transfer of records of all closed cases from the ICTY On 1 July 2015, the transfer of all physical judicial records in all closed cases of the ICTY to the MICT was completed.

Cornerstone for new Arusha premises unveiled On 1 July 2015, the MICT unveiled the cornerstone for the new buildings erected in Arusha that will encompass the courtroom, the archives and the office building.

Keynote speech of Prosecutor Jallow in Sarajevo On 12 June 2015, Justice Hassan B. Jallow gave a keynote speech at the international conference on the research process, documentation and prosecution of genocide in Bosnia and Herzegovina. He also signed a Memorandum of Understanding with the Minister of Justice for BiH for the continued assistance of the MICT to the Ministry of Justice facilitating access to evidence.

2. Procedural incidents

Ladislav Ntaganzwa arrested in DRC On 9 December 2015, the ICTR fugitive, former mayor of Nyakizu Commune, Ladislav Ntaganzwa was arrested by authorities of the Democratic Republic of Congo being indicted by the ICTR for genocide and crimes against humanity during the Rwandan genocide. Mr. Ntaganzwa was one of the fugitives whose cases the Prosecutor of the ICTR referred to Rwanda.

Initial appearance of Stanišić and Simatović On 18 December 2015, the first retrial held before the MICT started with the initial appearance of Stanišić and Simatović, both being charged before the ICTY “with having directed, organised, equipped, trained, armed and financed units of the SDB which murdered, persecuted, deported and forcibly transferred non-Serb civilians from Bosnia and Herzegovina (BiH) and Croatia between 1991 and 1995”.

On 30 May 2013, both Stanišić and Simatović were acquitted of all charges by ICTY Trial Chamber. On 15 December 2015, the ICTY Appeals Chamber quashed the former decision and ordered a retrial.

IV. SPECIAL COURT FOR SIERRA LEONE (SCSL) – RESIDUAL SPECIAL COURT FOR SIERRA LEONE (RSCSL) ([HTTP://WWW.RSCSL.ORG](http://www.rscsl.org))

1. News

Plenary of RSCSL Judges At the beginning of December 2015, the President and Judges of the RSCSL met in plenary for the first time since they were sworn-in in 2013. The purpose of this ceremony was to discuss the legacy of the Court’s work and the future course and functions of the RSCSL.

V. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC) ([HTTP://WWW.ECCC.GOV.KH/](http://www.eccc.gov.kh/))

1. News

Resignation of Judge Mark Brian Harmon On 7 July 2015, International Co-Investigating Judge Harmon (USA) announced his resignation for personal reasons as of the date upon which his successor will be sworn into office.

Thailand and Vietnam urged to provide assistance On 20 July 2015, Judge Harmon urged the Socialist Republic of Vietnam and the Kingdom of Thailand to comply with the request for assistance in the Cases 003 and 004 that are investigating serious violations of the Cambodian penal code and international (humanitarian) law. The Office of the Co-Investigating Judges requested back in November 2013 the assistance of Thailand and Vietnam by providing documents and access to their archives, which might be relevant for the investigation.

European Union's contribution of EUR8.9 million to the ECCC On 21 August 2015, the EU announced their new pledge of EUR 8.9 million to the ECCC: EUR 5.5 million were to be contributed in 2015 (EUR 2 million to the national component and EUR 3.5 million to the international component) and 3.4 million of Euros in 2016. The breakdown of its contribution for 2016 will be decided in 2016.

Death of accused IENG Thirith On 22 August 2015 IENG Thirith, indicted in Case 002 on charges of genocide, crimes against humanity and grave breaches of the Geneva Conventions of 1949, died in Cambodia. The proceedings against her were already stayed in 2012 as she had been found unfit due to her dementia.

New Co-Investigating Judge: Michael Bohlander On 25 August 2015, His Majesty the King Norodom Sihamoni appointed Judge Michael Bohlander from Germany as new International Co-Investigating Judge in the ECCC, replacing Judge Mark Brian Harmon (USA).

Financial contributions of Australia and Japan to the ECCC On 6 October 2015 and 27 November 2015 respectively, Australia pledged an additional AUS3.23 million and Japan US\$1.2 million to the ECCC.

2. Procedural incidents

Case 002 In the fourth quarter of 2015, the first evidence hearing related to charges of genocide were held. Fourteen witnesses, Civil Parties and one expert were going to testify in the Case 002/02 against Khieu Samphan and Nuon Chea, which focuses on the allegations related to the treatment of the Cham group.

Case 004 On 9 December 2015, Mr Yim Tith was charged by the International Co-Investigating Judge with the following alleged crimes: Genocide of Khmer Krom;

Crimes against Humanity (murder, extermination, enslavement, deportation, imprisonment, torture, persecution, other inhuman acts including forced marriage); grave breaches of the Geneva Conventions of 1949 (wilful killing and unlawful deportation or transfer of civilians); violations of the Cambodian Penal Code of 1956 (premeditated homicide).

Case 003 On 14 December 2015, the International Co-Investigating Judge charged with the following crimes Mr Meas Muth: Genocide, Crimes against Humanity (murder, extermination, enslavement, imprisonment, torture, persecution, other inhumane acts such as inhumane treatment, disappearances, forced labour, forced marriage, rape and attacks on human dignity); grave breaches of the Geneva Conventions of 1949 (wilful killing, wilfully causing great suffering or serious injury, torture and unlawful confinement of civilians); violations of the Cambodian Penal Code of 1956 (premeditated homicide).

Case 004. On 18 December 2015, the Judicial Investigation against IM Chaem was concluded after six years of judicial investigation for alleged crimes committed between April 1975 and January 1979.

VI. SPECIAL TRIBUNAL FOR THE LEBANON (STL) ([HTTP://WWW.STL-TSL.ORG/](http://www.stl-tsl.org/))

1. Judgements

Judgment in the case STL-14-05 On 18 September 2015, the Contempt Judge delivered the judgement in the contempt case *STL-14-05*: both accused were found not guilty with respect to the charges under Count 1 (*In Count 1, under Rule 60 bis (A), the Accused are charged with knowingly and willfully interfering with the administration of justice by broadcasting and/or publishing information on purported confidential witnesses in the Ayyash et al. case, thereby undermining public confidence in the Tribunal's ability to protect the confidentiality of information about, or provided by, witnesses or potential witnesses*). Regarding the charges under Count 2 (*In Count 2, under Rule 60 bis (A) (iii), the Accused are charged with knowingly and willfully interfering with the administration of justice by failing to remove from Al Jadeed TV's website and Al Jadeed TV's YouTube channel information on purported confidential witnesses in the Ayyash et al. case, thereby violating the Order issued by the Pre-Trial Judge in the Ayyash et al. case on 10 August 2012*), the Court found Ms Karma Khayat guilty and Al Jadeed TV not guilty.

The Court held a sentencing hearing on 28 September 2015. Ms Khayat was sentenced by Judge Nicola Lettieri to a fine of EUR10,000.

2. Procedural incidents

Appellation in the Case STL-14-05 On 29 September 2015, Kenneth Scott (Amicus Curiae Prosecutor for the STL) announced the appellation of the decisions acquitting Ms Khayat on Count 1 and acquitting the company Al Jadeed S.A.L. on both Count 1 and 2.

Case STL-14-06 On 21 December 2015, the Contempt Judge Nicola Lettieri rescheduled the trial start date in the case STL-14-06 to 24 February 2016. Mr Ibrahim Mohamed Ali Al Amin and Akhbar Beirut S.A.L are each charged with the count of contempt and obstruction of justice (Rule 60 bis of the Tribunal's Rules of Procedure and Evidence).

POLITICAL AND ECONOMIC COOPERATION

VII. EUROPEAN FREE TRADE ASSOCIATION COURT (EFTA COURT) (WWW.EFTACOURT.INT)

1. News

New President of the EFTA Surveillance Authority: Sven Erik Svedman On 14 September 2015, Sven Erik Svedman (Norway) was sworn in as the new President for the period of 1 September 2015 to 31 December 2017. He has previously served as State Secretary, Secretary General and Director General for Europe in the Norwegian Ministry of Foreign Affairs; was Chief Economist in the Norwegian Ministry of Foreign Affairs and also Ambassador to Germany, France and Israel.

Former President Thór Vilhjálmsson 1930 – 2015 On 20 October 2015, the former Judge and President of the Court Thór Vilhjálmsson passed away in Reykjavik.

The Handbook of EEA Law On 15 December 2015, the EFTA Secretariat hosted a launching event of the Handbook of EEA Law, edited by the President of the EFTA Court Prof. Dr. Dr. h.c. Carl Baudenbacher. The book offers an analysis of the EEA Agreement, how EU law is applied in the EFTA pillar, the roles of the EFTA Surveillance Authority as well as the Court, and provides national perspectives of courts, experts and national authorities from EFTA Member States.

2. Judgements

Case E-1/15 - EFTA Surveillance Authority v Iceland On 15 July 2015, the Court delivered the judgement declaring that Iceland has failed to fulfil its obligations under the Act and under Article 7 of the EEA Agreement by failing to adopt measures in order to implement the “Commission Directive 2010/26/EU of 31 March 2010 amending Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to measures against the

emission of gaseous and particulate pollutants from internal combustion engines to be installed in nonroad mobile machinery”. Iceland has to bear the costs of the proceeding.

Case E-2/15 - EFTA Surveillance Authority v Iceland On 17 July 2015, the Court declared that Iceland failed to adopt the necessary measures to make part of its internal legal order “Commission Implementing Regulation (EU) No 104/2013 of 4 February 2013 amending Regulation (EU) No 185/2010 as regards the screening of passengers and persons other than passengers by Explosive Trace Detection (ETD) equipment in combination with Hand Held Metal Detection (HHMD) equipment”. Iceland was ordered to bear the costs of the proceeding

Case 23/14 – Kimek Offshore AS v EFTA Surveillance Authority On 23 September 2015, the Court decided to partially annul the “Decision No 225/14/COL of 18 June 2014 on regionally differentiated social security contributions scheme” of the EFTA Surveillance Authority (ESA). The case was about whether Norway’s regionally differentiated social security contributions was to be considered unlawful State aid. The ESA bears the costs of the applicant as well as its own costs.

Case E-06/15 - EFTA Surveillance Authority v Norway On 28 September 2015, the Court declared that Norway failed to fulfil the obligations of article 16 of the “Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market” by maintaining the requirement of obtaining an authorisation by local municipalities before beginning with construction works (Section 20-1, second paragraph and section 22-3 of the Planning and Building Act, read in conjunction with Sections 9-1 to 9-4 and 11-1 of the Building Regulation). Norway was to bear the costs of the proceedings.

Case E-12/15- EFTA Surveillance Authority v the Principality of Liechtenstein On 28 September 2015, the Court declared that Liechtenstein failed to implement the “Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council” within the time prescribed. The Court ordered Liechtenstein to bear the costs of the proceedings.

Case E-7/15 - EFTA Surveillance Authority v The Kingdom of Norway On 2 October 2015, the Court declared that Norway failed to fulfil obligations arising under the “Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe” by surpassing the limit values for SO₂ and PM 10 in ambient air (2009-2012) in various zones; surpassing the limit values for NO₂ in ambient air (2010-2012) in various zones; and did not comply with the air quality plan obligation (Article 8(3) of Directive 96/62/EC, now Article 23 of Directive 2008/50). The Court ordered Norway to bear the costs of the proceedings.

Case E-10/15 - EFTA Surveillance Authority v Iceland On 27 October 2015, the Court declared that Iceland failed to adopt the necessary measures to implement the “Directive 2009/126/EC of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations”. Iceland was to bear the costs of the proceedings.

Case E-11/15 - EFTA Surveillance Authority v Iceland On 27 October 2015, the Court declared that Iceland failed to adopt the necessary measures to implement the “Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council” within the time prescribed. Iceland was to bear the costs of the proceedings.

Case E-18/15 - EFTA Surveillance Authority v Iceland On 16 December 2015, the Court declared that Iceland failed to adopt the necessary measures to implement the “Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC” within the time prescribed. Iceland was ordered to bear the costs of the proceedings.

3. Advisory opinions

Case E-3/15 - Liechtensteinische Gesellschaft für Umweltschutz v Gemeinde Vaduz On 2 October 2015, the Court delivered its advisory opinion:

- Liechtenstein was obliged to implement Directive 2011/92/EU pursuant to Decision No 230/2012 of 7 December 2012 of the EEA Joint Committee. Moreover, it had to apply it to the environmental impact assessment procedure.
- The adoption of a general environmental impact assessment decision is not compatible with Article 11 of Directive 2011/92/EU, while deferring the resolution of crucial issues relating to the project’s environmental effects such as those set out in Article 5(3) of Directive 2011/92/EU to subsequent authorisation procedures with no access for non-governmental organisations promoting environmental protection to a review procedure before a judicial body. It is the national court that decides whether crucial issues are at stake.
- EEA law does not require that non-implemented EEA rules can be relied on directly before national courts in the EFTA States. Nevertheless, following EEA law, national courts are bound to apply when interpreting national rules, as far as possible, the methods of interpretation recognised by national law.
- The Court leaves it to the referring court to determine the remedies that are available for an infringement of Article 11 of Directive 2011/92/EU.

Case E-5/15 Matja Kumba T M'bye and Others vv Stiftelsen Fossumkollektivet. On 16 December 2015, the Court gave the following Advisory Opinion:

- The average working time of 84 hours/week in a cohabitant care arrangement is compatible with Article 6 of Directive 2003/88/EC (in circumstances governed by Article 22(1)(a)) respecting the following: that the worker gave his consent explicitly, freely and individually; that the general principles of the protection of the safety and health of the worker are observed; and the physical and mental wellbeing of workers must be taken into account by the national legislature.
- A provision of national law is compatible with articles 6 and 22 of the Directive that states that worker's consent to work more than 60 hours per week in a cohabitant care arrangement cannot be revoked – provided that the general principles of the protection of the safety and health of workers are observed.
- A notice of dismissal and offer of re-engagement on new terms – after the refusal of a worker to agree to a working time arrangement of more than 48 hours over a seven-day period – is not to be considered a detriment within the meaning of Article 22(1)(b) of the Directive if the termination of the employment is based upon reasons that are fully independent of the worker's refusal to agree to perform such additional work.

Case E-13/15 – Abuelo Insua Juan Bautista v Liechtensteinische Invalidenversicherung. On 16 December 2015, the Court gave its Advisory Opinion on the interpretation of Article 87(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems. According to the Court, article 87 (2) does not prevent a recipient or claimant of benefits from challenging the findings of an institution of the place of stay or residence made under the said provision in an administrative procedure before a debtor institution.

4. Orders of the President

Case E-22/14 - DB Schenker v EFTA Surveillance Authority The President ordered on 28 August 2015 to remove Case E-22/14 from the Register.

Joined Cases E-8/15 and E-9/15 - Financial Services Compensation Scheme Limited and De Nederlandsche Bank N.V. v The Depositors' and Investors' Guarantee Fund On 7 October 2015, the President ordered to remove the Joined Cases E-8/15 and E-9/15 from the Register.